

Remarks/Arguments

Claims 1-6 are pending in this application. The Examiner has rejected new claims 5 and 6 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner has stated that the limitation in claim 5 and 6 that the continuous belt be ". . . parallel only to the top surface of the stuffing tube. . ." is not supported by the disclosure. In response, Applicant has amended claims 5 and 6 to require that the continuous belt be adjacent and only above the top surface of the stuffing tube, as shown in Fig. 2. Applicant believes that this amendment overcomes the Examiner's rejection.

The Examiner has rejected claims 1, 2, and 4 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 4,577,370 to Kollross. Applicant respectfully traverses for the reasons set forth below.

The Examiner has rejected claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Kollross in view of U.S. Pat. No. 5,085,036 to Evans. Applicant respectfully traverses for the reasons set forth below.

Rejection Under 35 U.S.C. § 102:

Anticipation "requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee." Hoover Group, Inc. v. Custom Metalcraft, Inc., 66 F.3d 299, 302, 36 U.S.P.Q.2d 1101, 1103 (Fed. Cir. 1995). "[P]rior knowledge by others requires that all of the elements and limitations of the claimed subject matter must be expressly or inherently described in a single prior art reference." Elan Pharms., Inc. v. Mayo Found. for Med. Educ. & Research, 304 F.2d 1221, 1227, 64 U.S.P.Q.2d 1292 (Fed. Cir. 2002) (citing In re Robertson, 169 F.3d 743,

745, 49 U.S.P.Q.2d 1949, 1950 (Fed. Cir. 1999); Constant v. Advanced Micro-Devices, Inc., 848 F.2d 1560, 1571, 7 U.S.P.Q.2d 1057, 1064 (Fed. Cir. 1988)). "The single reference must describe and enable the claimed invention, **including all claim limitations**, with sufficient clarity and detail to establish that the subject matter already existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention." Id. (citing Crown Operations Int'l, Ltd. v. Solutia Inc., 289 F.3d 1367, 1375, 62 U.S.P.Q.2d 1917, 1921 (Fed. Cir. 2002); In re Spada, 911 F.2d 705, 708, 15 U.S.P.Q.2d 1655, 1657 (Fed. Cir. 1990)); see also PPG Indus., Inc. v. Guardian Indus. Corp., 75 F.3d 1558, 1566, 37 U.S.P.Q.2d 1618, 1624 (Fed. Cir. 1996) (emphasis added).

Independent claims 1 and 2 require, in part, that the textured belt slide the casing towards the discharge end of the stuffing tube and **into the twisting mechanism**. (emphasis added).

By contrast, Kollross teaches sliding the casing towards a closure mechanism 66 (Fig. 1) so that clamps 68 may be fastened onto the casing. The Examiner has stated that "since the clips are twisted and are attached directly to the casing the casing is also twisted during the clipping process and therefore the clipping device of Kollross is a twisting mechanism." (Office Action, page 5). Applicant respectfully disagrees.

The terms "twisting mechanism" and "clipping mechanism" have significance to those skilled in the art and have very different meanings. For instance, U.S. Pat. No. 6,325,711 to Bruinsma et al. discloses a typical twisting mechanism within the meaning known by those skilled in the art. As shown in Bruinsma et al., a twisting mechanism 10 includes a toothed belt ring 22 that receives the strand of sausage and twists the

sausage to form links. (See col. 1, lines 9-16). A twisting mechanism uses rotation and not clips to form the links.

By contrast, a clipping mechanism uses compressive force to apply metallic clips to the sausage strand to form links. For example, U.S. Pat. No. 5,209,041 to Evans discloses a typical clipping mechanism within the meaning known by those skilled in the art. As set forth in Evans, the sausage strand is sealed with clips without rotation or twisting the strand. (See col. 4, lines 11-55).

Therefore, as Kollross fails to teach the use of a twisting mechanism within the meaning known in the art, Kollross does not teach each and every element of claims 1, 2, and 4. Accordingly, the Examiner's rejection under Section 102 should be withdrawn.

Rejection Under 35 U.S.C. § 103:

The teachings or suggestions to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. See In re Vacck, 997 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); MPEP § 2143. In other words, to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught by the prior art. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974).

Claim 3 depends from independent claim 1. As discussed above, Kollross fails to teach each and every element of independent claim 2.

Accordingly, as the combination of Kollross and Evans does not result in the invention as claimed, the obvious rejection should be withdrawn.

Conclusion

In view of the above amendments and remarks, Applicant believes that claims 1-6 are in condition for allowance, and respectfully requests allowance of such claims. If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515-558-0200.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-2098.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'TJZ', with a long horizontal flourish extending to the left.

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